

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

THE UNITED STATES OF AMERICA,
EX REL.; THE STATE OF TEXAS, EX
REL.; THE STATE OF FLORIDA, EX
REL.; THE STATE OF NEW MEXICO,
EX REL.; AND MATTHEW ANDREW
GARCES, RELATOR;

Plaintiffs,

VS.

UNITED HEALTHCARE SERVICES, INC., A MINNESOTA CORPORATION; OPTUM CARE, INC., A DELWARE CORPORATION; WELLMED MEDICAL MANAGEMENT, INC., A TEXAS PROFESSIONAL ASSOCIATION; WELLMED MEDICAL GROUP, P.A., A TEXAS CORPORATION; AND EPISOURCE, LLC, A CALIFORNIA CORPORATION;

Defendants.

SA-20-CV-00661-JKP

ORDER

Before the Court in the above-styled cause of action is the Government's Notice of Election to Decline Intervention [#7]. This is a *qui tam* action arising under the False Claims Act, 31 U.S.C. § 3730, initiated by Relator Matthew Andrew Garces in the name of the United States and the States of Texas, Florida, and New Mexico. In accordance with governing statutes, this case was placed under seal while the United States and the relevant States considered whether to elect to intervene and take over the prosecution. *See* 31 U.S.C. § 3730(b)(2) (directing Court to seal complaint for at least 60 days during intervention period). By its notice, the Government informs the Court of its decision not to intervene in this action. Additionally,

the Notice informs the Court that the States of Texas, Florida, and New Mexico have authorized the United States to inform the Court that they have also decided not to intervene in this action.

Where the Government elects not to intervene, as here, the relator who initiated the action shall have the right to proceed as Plaintiff and to prosecute the case in the name of the United States. *Id.* at § 3730(c)(3). The Government, upon request, shall continue to be served with copies of all pleadings and supplied with all deposition transcripts, at the Government's expense. *Id.* The Government may intervene at a later date upon a showing of good cause. *Id.* A *qui tam* action may be dismissed only if the Court and the Attorney General give written consent to the dismissal. *Id.* at § 3730(b)(1).

The United States therefore requests that the Court unseal Relator Matthew Andrew Garces's Complaint but keep those filings submitted during the intervention period under seal except for the Government's Notice and this Order. The United States further asks that the seal be lifted as to all future filings in this case after the date of this Order. Although the United States declines to intervene at this time, it requests that the parties serve all pleadings and motions upon the Government pursuant to 31 U.S.C. § 3730(c)(3), so that the United States is apprised of the progress of this case and may make the informed decision to intervene at a later date if it so chooses. Finally, the Government asks the Court to solicit its written consent before dismissing this action.

IT IS THEREFORE ORDERED that Relator's Complaint [#1] be **UNSEALED** and served upon Defendants by Relator in conformity with the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Court's Order of referral [#2], the Government's Notice of Election to Decline Intervention [#7], and this Order also be **UNSEALED**.

IT IS FURTHER ORDERED that the following filings [#3, #4, #5, #6] remain **SEALED**.

IT IS FURTHER ORDERED that this case be **UNSEALED** as to all other matters occurring in this action after the date of this Order.

IT IS FURTHER ORDERED that the parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The States of Texas, Florida, and New Mexico shall be similarly served. The United States and the States of Texas, Florida, and New Mexico may order any deposition transcripts and are entitled to intervene in this action, for good cause, at any time.

IT IS FURTHER ORDERED that the parties shall serve all notices of appeal upon the United States and the Plaintiff States.

IT IS FURTHER ORDERED that all orders of this Court shall be sent to the United States and the Plaintiff States.

IT IS FINALLY ORDERED that should Relator or Defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States and the States of Texas, Florida, and New Mexico before ruling on or approving the request.

SIGNED this 5th day of January, 2021.


ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE